

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

MORRIS ROBERSON,

Plaintiff,

v.

CDCR, et al.,

Defendants.

Case No. 1:22-cv-00833-SAB (PC)

ORDER DIRECTING CLERK OF COURT  
TO RANDOMLY ASSIGN A DISTRICT  
JUDGE TO THIS ACTION

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF  
CERTAIN CLAIMS AND DEFENDANTS

(ECF No. 9)

Plaintiff Morris Roberson is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On August 22, 2022, the Court screened Plaintiff's complaint and found a cognizable excessive force claim against Chavez, Salazer, Kyt, Lirio and Furlong, and a cognizable failure to intervene claim against Defendants Valero, Rodriguez, Charles, Furlong, Acebedo, Lirio, Hunter, Loza and Gonzalez. (ECF No. 8.) However, Plaintiff fails to state any other cognizable claims for relief. Plaintiff was informed that he could file an amended complaint or a notice of intent to proceed on the claims found to be cognizable. (Id.)

On September 13, 2022, Plaintiff timely notified the Court of his intent to proceed on the claim found to be cognizable. (ECF No. 9.) Therefore, the Court will recommend that this action proceed only on Plaintiff's excessive force claim against Chavez, Salazer, Kyt, Lirio and Furlong, and failure to intervene claim against DefendantS Valero, Rodriguez, Charles, Furlong,

Acebedo, Lirio, Hunter, Loza and Gonzalez. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010).

Accordingly, it is HEREBY ORDERED that the Clerk of Court shall randomly assign a District Judge to this action.

Further, it is HEREBY RECOMMENDED that:

1. This action proceed only on Plaintiff's excessive force claim against Chavez, Salazer, Kyt, Lirio and Furlong, and failure to intervene claim against Defendants Valero, Rodriguez, Charles, Furlong, Acebedo, Lirio, Hunter, Loza and Gonzalez; and
2. All other claims and Defendants be dismissed for failure to state a cognizable claim.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: September 13, 2022

  
UNITED STATES MAGISTRATE JUDGE

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